

APPLICATION GRANTED
SO ORDERED 

VERNON S. BRODERICK

U.S.D.J. 5/14/2021

BY ECF

Hon. Vernon S. Broderick
United States District Court
Southern District of New York
40 Foley Square, Room 415
New York, New York 10007

Plaintiff is directed to file a notice of appearance and a complaint in this action by May 28, 2021. Additionally, Defendant is directed to send a copy of this order to Plaintiff by May 20, 2021.

Re: American Infotech Solutions, Inc. v. JPMorgan Chase Bank, N.A.
Case No. 21-CV-3782 (VSB) (OTW)

Dear Judge Broderick:

My firm represents Defendant JPMorgan Chase Bank, N.A. ("Chase") in the captioned action, which was removed to this Court on April 28, 2021 on grounds of diversity of citizenship. The notice of removal was based on the allegations contained in the Summons with Notice filed by plaintiff American Infotech Solutions, Inc. ("AIS"), a copy of which is enclosed. Counsel for AIS was served with the notice of removal by e-mail on April 29, 2021, and would have received notice of Chase's filing of a notice of removal in the state court action from that court's automatic messaging system on that date as well. By this letter, Chase requests that the Court set a date for plaintiff to file a complaint.

Under New York's Civil Practice Law and Rules, Chase would have been required to appear in the action and demand a complaint in the state court action by today, May 12, 2021; a complaint must be served within 20 days of such demand. N.Y. CPLR 3012(b). While this firm has appeared for Chase in this action, Chase has not filed a demand for a complaint because there is no mechanism under the Federal Rules of Civil Procedure to do so. Nor is there a provision of the Federal Rules that requires a defendant to file an answer or motion in response to a summons with notice.

Accordingly, by email dated April 29, 2021, I asked AIS's counsel to enter into a stipulation setting a deadline for AIS to file its complaint in this action. Counsel did not respond, and I followed up by email on May 5. I then received an automated response indicating that counsel was out for observance of Ramadan through May 14, 2021 and that his responses to emails might be delayed. Counsel responded to me on May 6, 2021, stating that he would "revert back" by May 10, 2021, but he has not done so.

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As counsel has not responded to Chase's April 29 request that it file a complaint, Chase respectfully requests that the Court order AIS to file a complaint in this action by two weeks from the date of its order.

Respectfully,



Andrea Likwornik Weiss

Encl.

cc: M. Salman Ravala, Esq. (by e-mail, w/enclosure)
Counsel for Claimant